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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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WM51/1103

EXAMINER

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PSITOS, A

ART UNIT	PAPER NUMBER
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2651

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DATE MAILED:

11/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/131,941</b>	Applicant(s) <b>Ishii Et Aal</b>
	Examiner <b>Psitos</b>	Group Art Unit <b>2651</b>



Responsive to communication(s) filed on Sep 26, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 1-18 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-18 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been
- received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of References Cited, PTO-892 *8/25*
- Information Disclosure Statement(s), PTO-1449, Paper No(s). /& 9/26/2000
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

Applicants' communication of 9/18/2000 has been received with the following results.

The correction to the drawings is approved by the examiner.

The IDS of 9/18/2000 has been received and entered. It is noted that there is also another IDS of 8/25/2000 (duplicate of).

The title change is acceptable.

#### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "table producing unit" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

#### *Claim Rejections - 35 U.S.C. § 112*

2. Claims 17 & 18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner fails to readily find support for the terms "unitary attribute information units" and "unitary attribute information" as recited in the independent claim 17. Applicants' cooperation in identifying where such a term is found in the specification as originally filed is respectfully requested.

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The dependent claim does not clarify the above problem and falls accordingly.

***Claim Rejections - 35 U.S.C. § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

✓ 4. Claims 1-3, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Heo et al.

The reference is relied upon for the reasons of record. The limitations of claim 16 are considered present in the document. The table information and the unit attribute information are so located.

Applicants' arguments re this reference are not convincing. Again, applicants' attention is drawn to those previously identified sections of the Heo et al document. Additionally, in response to applicants' argument of what is lacking, the examiner refers applicants to the description of the audio title information management table. This clearly meets applicants' "aggregate attribute information".

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5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by the Ludeman article.

Again, the document is relied upon for the reasons of record. In response to applicants' arguments that the documents lacks the "aggregate attribute information"- applicants' attention is once again drawn to the control block 2 in this document. Since there is one control block for all of the audio blocks (3) found in each individual audio track, the examiner finds applicants' argument as not persuasive.

6. Claims 1-3, are rejected under 35 U.S.C. 102(a) as being anticipated by EP 0797205, or EP 0856849 or EP 0855715.

These documents are relied upon for the reasons presented in the submitted European search report.

The examiner agrees with the position taken therein.

### ***Claim Rejections - 35 U.S.C. § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ludeman as applied to claim 1 above, and further in view of Heo et al.

The references are relied upon for the reasons of record.

Applicants' arguments are not persuasive for the reasons stated above with respect to Ludeman.

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10. Claims 4-15 are rejected under 35 U.S.C. 012 (e) as anticipated by Heo et al or alternatively under 35 U.S.C. 103 (a) as being unpatentable over Heo et al as applied above, and further in view of either Yamamoto et al or Yoshio et al.

The references are relied upon for the reasons of record.

Again, applicants' arguments wrt the primary reference Heo et al is not convincing for the reasons stated above.

11. Claims 4-16 are rejected under 35 U.S.C. 102(a) as being unpatentable over EP 0797205 as applied to claim 1 above, and as further amplified below.

The EP documents are relied upon for the reasons of record.

The apparatus limitations to the determining unit, attribute change unit and search unit are found in fig. 10 of the EP document - in agreement with applicants' elements.

12. Claims 4-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over either EP 0724264 or EP 0856849 as applied to claim 1 above, and further in view of either Yamamoto et al or Yoshio et al.

The EP documents are relied upon for the reasons of record.

The Yamamoto et al and Yoshio et al references are each relied upon for the reasons stated in the previous Office action.

Although there is a "controller" in each of the EP documents, it would have been obvious to further modify either of the EP documents with the teachings referred to in the previous Office action - motivation being to include the appropriate capability of selecting the designated

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locations/tracks for the proper audio output to be decoded in order of playback in accordance with the change in attributes.

13. Claims 1-5,7-8,10-11,13-14 and 16 are rejected under 35 U.S.C. 102(a) as being anticipated by either EP 0797197.

The EP documents (0797197 and EP 0757506) are relied upon for the reasons stated in the European search reported submitted in the IDS of 9/18/2000 and as further amplified below.

The VOB includes appropriate aggregate attribute information for the audio segments found in the EP (0797197) system including the formation of appropriate tables - see the discussion re table 80 commencing at col. 10 line 35 pilus..

Applicants' attention is drawn to fig. 6 therein and the operation thereof, wherein the examiner interprets the controller in the CPU system - element 502 section as the determining unit, elements 502,504 & 513 as the attribute change unit and elements, and elements 502 & 501 as the search unit. The input unit is of course element 500.

14. Claims 6 9,12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0797197 as applied to the claims above, and further in view of Official notice.

Since the amount of time require to process the information is dependent upon the system processing section - element 504 - and this element is variable - note the continuous new CPUs having a continuous change in processors available to the general public - the well known 386 , 486, etc. processors - one of ordinary skill in the art would designate an appropriate waiting time as recited in the above claims in order to allow appropriate processing to occur.

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It would have been obvious to one of ordinary skill in the art to modify the system of EP 0797197 with the ability of setting the waiting time accordingly - motivation being to increase the flexibility of the overall system and hence increase its' useful life.

15. Claims 1-5,7-8,10-11,13 & 14<sup>and 16</sup> are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0757506.

The EP document is relied upon for the reasons stated in the European search report submitted in the IDS of 9/18/2000 and as further amplified below.

The additional limitations in claims 5, 8 and 14 are considered present in the above document - see fig. 3 and its description - re the operation of the disk drive section 30.  
*The limitations of claim 16 are also considered present.*

16. Claims 6, 9,12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the EP document 0757506 as applied to claim 1 above, and further in view of Official notice.

The examiner repeats the Official notice position taken above in paragraph 14.

Also the motivational reason is repeated as well.

17. Applicants' attention is also drawn to Yonemitsu et al - 5592450 - especially the ability of the ATOC and TOC in this environment.

17. Applicant's submission of an information disclosure statement under 37 CFR 1.97© with the fee set forth in 37 CFR 1.17(p) on 8/21/2000 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(I). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

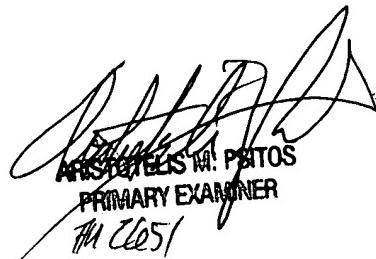
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (703) 308-1598.

amp

October 30, 2000



ARISTOTELIS M. PSITOS  
PRIMARY EXAMINER  
TM 2651